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IN THE
COURT OF APPEALS OF INDIANA

MICHAEL PEASE,	)	
	)	
Appellant-Defendant,,	)	
	)	
vs.	)	No. 82A01-0609-CR-412
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE VANDERBURGH COURT
The Honorable David D. Kiely, Magistrate
Cause No. 82C01-0602-FD-234

April 18, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Michael Pease ("Pease") pleaded guilty in Vanderburgh Circuit Court to three counts of Class D felony performing sexual conduct in the presence of a minor, four counts of Class D felony dissemination of material harmful to a minor, and three counts of Class D felony activity related to obscene performance. Pease was sentenced to serve an aggregate sentence of six years. He appeals and argues that the trial court improperly relied on hearsay evidence to justify the imposition of consecutive sentences. Concluding that the trial court acted within its discretion in sentencing Pease, we affirm.

Facts and Procedural History

During the summer of 2005, Pease resided with his step-daughters, ten-year-old C.P. and seven-year-old T.P. That summer, ten-year-old K.T. spent the night at the Pease home on several occasions. During these "sleepovers," Pease showed all three girls pornographic magazines, inserted a dildo into his rectum in their presence, and filled a condom with water and sucked on it in front of them. Pease's child, five-year-old M.P., was also in the house at the time, but did not witness the acts.

On November 10, 2005, ten-year-old A.F. spent the night at the Pease residence with C.P. and T.P. Pease showed the three girls pornographic magazines and also showed them a dildo.

On February 28, 2006, Pease was charged with the following offenses: Counts I, II and III, Class D felony performing sexual conduct in the presence of a minor; Counts IV, V, VI and VII, Class D felony dissemination of matter harmful to minors; and Counts VIII, IX and X, Class D felony activity related to obscene performance. On July 25,

2006, Pease pleaded guilty to all counts. During the guilty plea hearing, he admitted to committing these acts to satisfy his sexual desires. Tr. pp. 20-22.

At sentencing, the trial court heard argument concerning whether Pease's offenses constituted a single episode of criminal conduct. Pease was then sentenced to an aggregate term of six years as follows: two years each on Counts I, II, and III to be served concurrent; two years each on Counts VIII, IX and X to be served concurrent with each other but consecutive to Counts I, II, and III; and two years each on Counts IV, V, VI, and VII to be served concurrently with each other and consecutive to all other counts. Tr. pp. 58-60. Pease now appeals. Additional facts will be provided as necessary.

Standard of Review

Sentencing decisions are within the sound discretion of the trial court, and we will reverse only for an abuse of that discretion. Field v. State, 843 N.E.2d 1008, 1010 (Ind. Ct. App. 2006), trans. denied. An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. Id.

Discussion and Decision

Pease argues that the trial court erred in admitting hearsay evidence at the sentencing hearing, which the court relied on to impose consecutive sentences. At the sentencing hearing, the State solicited testimony from Detective Brian Turpen of the Evansville Police Department to establish when the charged acts occurred to support its argument that the trial court should impose consecutive sentences.

Pease concedes that hearsay evidence is generally admissible at sentencing hearings. Br. of Appellant at 16; see also Ind. Evidence Rule 101(c) (2007). However,

he argues that hearsay is only admissible if it is reasonably reliable and "the record of this cause is completing [sic] lacking any indication that the trial court considered the hearsay testimony solicited from Detective Turpen has [sic] reliable." Id.

Detective Turpen interviewed the four victims and Pease during his investigation of these offenses and relied on their statements to establish when the charged offenses occurred. Detective Turpen's testimony is consistent with the victims' and Pease's statements as recounted in the probable cause affidavit, which the trial court incorporated into the sentencing hearing without objection. "Hearsay statements, without any indicia of reliability, cannot establish probable cause[.]" Hirshey v. State, 852 N.E.2d 1008, 1014 (Ind. Ct. App. 2006), trans. denied; see also Ind. Code § 35-33-5-2 (2004 & Supp. 2006). To the extent that Detective Turpen's testimony exceeded the information contained in the probable cause affidavit, Pease does not make any specific argument to support his assertion that the detective's testimony was unreliable.

We agree with Pease that he "is entitled to be sentenced only on the basis of accurate information." Moyer v. State, 796 N.E.2d 309, 313 (Ind. Ct. App. 2003) (citing Dillon v. State, 492 N.E.2d 661, 663 (Ind.1986)); see also Gardner v. State, 270 Ind. 627, 638, 388 N.E.2d 513, 520 (1979). However, he has not established that Detective Turpen's testimony lacked accuracy or reliability. Therefore, we conclude that the trial court properly considered the detective's testimony in sentencing Pease.

Affirmed.

NAJAM, J., and MAY, J., concur.